

"(A) IN GENERAL.—The term 'qualified disaster-related distribution' means any payment or distribution received by an individual to the extent that the payment or distribution is used by such individual within 60 days of the payment or distribution to pay for the repair or replacement of tangible property which is disaster-damaged property. Such term shall only include any payment or distribution which is made during the 2-year period beginning on the date of the determination referred to in subparagraph (C).

"(B) DISASTER-DAMAGED PROPERTY.—The term 'disaster-damaged property' means property—

"(i) which was located in a disaster area on the date of the determination referred to in subparagraph (C), and

"(ii) which was destroyed or substantially damaged as a result of the disaster occurring in such area.

"(C) DISASTER AREA.—The term 'disaster area' means an area determined by the President to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to payments and distributions after December 31, 1996, with respect to disasters occurring after such date.

SEC. 725. ELIMINATION OF 10 PERCENT FLOOR FOR DISASTER LOSSES.

(a) GENERAL RULE.—Section 165(h)(2)(A) (relating to net casualty loss allowed only to the extent it exceeds 10 percent of adjusted gross income) is amended by striking clauses (i) and (ii) and inserting the following new clauses:

"(i) the amount of the personal casualty gains for the taxable year,

"(ii) the amount of the federally declared disaster losses for the taxable year (or, if lesser, the net casualty loss), plus

"(iii) the portion of the net casualty loss which is not deductible under clause (ii) but only to the extent such portion exceeds 10 percent of the adjusted gross income of the individual.

For purposes of the preceding sentence, the term 'net casualty loss' means the excess of personal casualty losses for the taxable year over personal casualty gains."

(b) FEDERALLY DECLARED DISASTER LOSS DEFINED.—Section 165(h)(3) (relating to treatment of casualty gains and losses) is amended by adding at the end the following new subparagraph:

"(C) FEDERALLY DECLARED DISASTER LOSS.—The term 'federally declared disaster loss' means any personal casualty loss attributable to a disaster occurring in an area subsequently determined by the President of the United States to warrant assistance by the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act."

(c) CONFORMING AMENDMENT.—The heading for section 165(h)(2) is amended by striking "NET CASUALTY LOSS" and inserting "NET NONDISASTER CASUALTY LOSS".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to losses attributable to disasters occurring after December 31, 1996, including for purposes of determining the portion of such losses allowable in taxable years ending before such date pursuant to an election under section 165(i) of the Internal Revenue Code of 1986.

Strike section 751 of the bill.

On page 239, strike lines 18 and 19.

On page 239, lines 20, strike "(5)" and insert "(4)".

On page 240, line 1, strike "(6)" and insert "(5)".

Mr. DORGAN. Madam President, let me ask unanimous consent that amendment No. 516 be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 517

(Purpose: To impose a lifetime cap of \$1,000,000 on capital gains reduction)

Mr. DORGAN. I offer one additional amendment this evening to be sent to the desk. Let me describe the amendment before I send it to the desk. It is an amendment that I wrote years ago, and I have offered it previously but feel that I want to offer it again on the issue of capital gains. I have long felt when we provide capital gains differential treatment that we should provide a lifetime limit on the amount of capital gains one is able to take at a preferred tax rate.

I have proposed in the past, and will propose with this amendment, a \$1 million lifetime limit on capital gains tax treatment per taxpayer. I will describe later, and we will have an opportunity tomorrow to discuss some of these issues, but I really feel that the Congress should address this with respect to capital gains.

Let me make one additional point. There are some—and we can have a philosophical discussion about the tax situation—some that say, let us exempt income from investments which tend to favor those who invest. Why not say, let us exempt income from work and favor those who work, or maybe a balance between those who work and those who invest. But I have great difficulty believing that somehow investment has more merit than work.

Let's index investment. Let's index the income from work. I want to have a discussion in the context of capital gains as to why do we always in Congress, when we talk about giving some break or cuts, why do we always talk about taxing work and exempting investment? It is not that I am opposing trying to provide encouragement to investment, but why not provide similar encouragement to work?

I want to have that discussion on the issue of capital gains, and I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 517.

Mr. DORGAN. Madam President, I ask unanimous consent reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 96, strike lines 11 through 16, and insert:

"(3) ADJUSTED NET CAPITAL GAIN.—For purposes of this subsection—

"(A) In general.—The term 'adjusted net capital gain' means net capital gain determined without regard to—

"(A) IN GENERAL.—The term 'adjusted net capital gain' means net capital gain determined without regard to—

"(i) collectibles gain, and

"(ii) unrecaptured section 1250 gain.

"(B) \$1,000,000 LIFETIME LIMITATION.—

"(i) IN GENERAL.—The adjusted net capital gain for any taxable year shall not exceed \$1,000,000, reduced by the aggregate adjusted net capital gain for all prior taxable years.

"(ii) SPECIAL RULE FOR JOINT RETURNS.—The amount of the adjusted net capital gain taken into account under this section on a joint return for any taxable year shall be allocated equally between the spouses for purposes of applying the limitation under clause (i) for any succeeding taxable year.

"(C) CAPITAL GAINS RATE REDUCTION NOT TO APPLY TO CERTAIN TAXPAYERS.—The adjusted net capital gain for any taxable year in the case of any of the following taxpayers shall be zero:

"(i) An individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins.

"(ii) A married individual (within the meaning of section 7703) filing a separate return for the taxable year.

"(iii) An estate or trust.

Mr. DORGAN. A final comment. I wanted to offer these amendments so we could begin discussing them. I hope a couple of them might be accepted and a couple of them we can have votes on, especially the issue of triggering the tax cuts beyond the first 5 years to make certain we are not once again experiencing a Federal deficit in the long term. I am very interested—and I will be here to talk tomorrow—about other issues with respect to an alternative that I think has great merit.

Let me leave, as I began, to compliment the Senator from Delaware. There are a number of provisions in his piece of legislation I support and think have great merit. I hope some of the amendments that I offer and others offer that will improve the bill might be accepted, as well. If we can get the best of what both sides have to offer in this debate, the Congress will pass a tax bill that is worthy of consideration by the American people.

Madam President, I yield the floor.

AMENDMENT NO. 518

(Purpose: To repeal the depletion allowance available to hardrock mining companies already enjoying substantial subsidies due to the largesse associated with the 1872 mining law)

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. I send an amendment to the desk.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself, Mr. GREGG, and Mr. ROBB, proposes an amendment numbered 518.

Mr. BUMPERS. Madam President, I ask unanimous consent the reading of the amendment be dispensed.

The amendment is as follows:

At the appropriate place in the bill add the following new section:

SEC. . REPEAL OF DEPLETION ALLOWANCE FOR CERTAIN HARDROCK MINES.

(a) IN GENERAL.—The first sentence of section 611(a) of the Internal Revenue Code of